



Exempt Action Final Regulation Agency Background Document

Agency name	Department of Medical Assistance Services
Virginia Administrative Code (VAC) citation	12 VAC30-10-820
Regulation title	State Plan Under Title XIX of the Social Security; Administration of Medical Assistance Services
Action title	Employee Education About False Claims Act
Final agency action date	
Document preparation date	

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 36 (06) and 58 (99).

Summary

Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Employee Education About False Claims Recoveries

This amendment adds a new section to the federally mandated preprint pages of the State Plan for Medical Assistance, Section 4.42 regarding Employee Education About the False Claims Recovery. This regulatory action is intended to implement section 6032 of the Deficit Reduction Act of 2005. This section of the DRA is based upon section 1902(a)(68) of the *Social Security Act* (the Act), and relates to "Employee Education About False Claims Recovery."

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

I hereby approve the foregoing Agency Background Document with the attached regulations for 2007 Employee Education About False Claims Recoveries (12VAC 30-10-820) and adopt the action stated therein. The agency shall receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision. I certify that this final regulatory action meets the exemption requirements of the *Code of Virginia* § 2.2-4006, (A)(4)(c) of the Administrative Process Act and that these regulations are full, true, and correctly dated.

Date

Patrick W. Finnerty, Director
Dept of Medical Assistance Services

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The section of the State Plan being added by this action is section 4.42, Employee Education about False Claims Recovery (12VAC 30-10-820).

The *Code of Virginia* (1950) as amended, 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. *The Code of Virginia* (1950) as amended, § 32.1 – 324, authorizes the Director of DMAS to administer and amend the Plan for Medical Assistance according to the Board’s requirements. The Medicaid authority as established by § 1902 (a) of the *Social Security Act* [42 U.S.C. 1396a] provides governing authority for payments and services.

This action meets the exemption provided by the *Code of Virginia* § 2.2 – 4006 (A) (4) (a) because it conforms these attached regulations to the requirements of section §6032 of the Deficit Reduction Act of 2005 (DRA) and does not materially differ. Additionally, the Agency has no discretion concerning the implementation of these mandated requirements.

Employee Education about False Claims Recoveries

This change is intended to implement section 6032 of the Deficit Reduction Act of 2005. This section of the DRA is based upon section 1902(a) (68) of the Social Security Act (the Act), and relates to “Employee Education About False Claims Recovery.” It requires that a new section

(section 4.42) and attachment (Attachment 4.42) be added to the State Plan for Medical Assistance.

DRA section 6032 requires Medicaid providers who receive at least \$5 million in Medicaid payment to:

- 1) establish written policies for all employees and contractors or agents of the entity to provide detailed information about the False Claims Act and separate administrative remedies, any state laws pertaining to civil or criminal penalties for false claims or statements, and whistleblower protection under such laws;
- 2) include as part of the written policies, detailed provisions regarding the provider’s policies and procedures for detecting and preventing fraud, waste, and abuse, and;
- 3) include in the employee handbook a specific discussion of the rights of the employees to be protected as whistleblowers and the entity’s polices and procedures for detecting fraud, waste, and abuse.

Virginia Medicaid providers also must inform their employees about the Virginia Fraud Against Taxpayers Act (Va. Code 8.01-216.1, et. seq.), which includes whistleblower protections. DRA Section 6032 does not require actual training regarding false claims; however, it makes compliance with the above-stated requirements a condition of Medicaid reimbursement. DMAS could recoup any payments made to providers for any periods in which the provider failed to have in place written policies regarding the False Claims Act uncovered during an audit.

Family impact

Assess the impact of this regulatory action on the institution of the family and family stability.

These regulatory actions will not have any negative effects on the institution of the family or family stability. It will not increase or decrease disposable family income or erode the marital commitment. It will not discourage economic self-sufficiency, self-pride, or the assumption of family responsibilities.